
ST. GEORGE’S UNIVERSITY SCHOOL OF MEDICINE TITLE IX SEXUAL HARASSMENT POLICY

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Part 1

GENERAL PROVISIONS

1.1 INTRODUCTION

St. George's University School of Medicine ("SGUSOM") is committed to providing an educational environment free from sex discrimination, including Sexual Harassment. In accordance with Title IX of the Education Amendments of 1972 and its implementing regulations at Volume 34, Code of Federal Regulations, Part 106 (collectively, "Title IX"), SGUSOM prohibits any person in the United States from being excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of sex under any education program or activity SGUSOM offers, which extends to admission and employment. Inquiries regarding the application of Title IX may be referred to the Title IX Coordinator (as identified in Section 1.4), the Assistant Secretary for the Office of Civil Rights of the U.S. Department of Education, or both.

To the extent SGUSOM's education programs and activities are conducted in New York, this Policy is also intended to be consistent with the requirements of New York Education Law Article 129-B. In the event of a conflict between this Policy and applicable New York law, SGUSOM will apply the provision that affords greater protection to the parties.

1.2 DEFINITIONS

Actual Knowledge means notice of Sexual Harassment or Allegations of Sexual Harassment to the SGUSOM Title IX Coordinator who is the official of SGUSOM with the authority to institute corrective measures on behalf of SGUSOM. Notice may be received through an oral report, a written report, personal observation, a newspaper article, or various other means.

Advisor means a person chosen by a Complainant or Respondent to accompany the party to meetings, interviews, hearings, or other proceedings under this Policy. An Advisor may be, but is not required to be, an attorney. SGUSOM will not limit the choice or presence of an Advisor for either party in any meeting or grievance proceeding, except that SGUSOM may establish reasonable and equal rules governing Advisor participation and decorum. At a live hearing, cross-examination must be conducted by a party's Advisor and never by a party personally. If a party does not have an Advisor present at the hearing, SGUSOM will provide, without fee or charge to that party, an Advisor of SGUSOM's choice to conduct cross-examination on behalf of that party. The appointment of an Advisor by SGUSOM does not create an attorney-client or other privileged relationship between the Advisor and the party.

A party may change Advisors at any time by notifying the Title IX Coordinator in writing. A change in Advisor will not automatically require the postponement of any meeting, interview, hearing, deadline, or other scheduled event. SGUSOM may deny or limit a requested delay where the request would materially impair the prompt and equitable resolution of the matter.

Allegation means an assertion that someone has engaged in Sexual Harassment.

Complainant means an individual who is alleged to be a victim of conduct that could constitute Sexual Harassment under this Title IX Policy, where such conduct occurred against that individual while in the United States and within SGUSOM's education program or activity in the United States. This person is considered a Complainant regardless of whether they choose to file a Formal Complaint under this Title IX Policy and regardless of whether the individual is physically located in the United States at the time of reporting or at any subsequent point during the grievance process.

Consent means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity and must be affirmative. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate Consent. The definition of Consent applies equally to all persons regardless of sex or any other characteristic of the participants.

- Consent to any sexual act or prior consensual activity between or with any person does not necessarily constitute Consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is Incapacitated.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When Consent is withdrawn or can no longer be given, sexual activity must stop.

Decision-Maker(s) means the individual or members of the Hearing Panel appointed under Section 3.4.1 of this Title IX Policy who are responsible for making determinations regarding responsibility following a live hearing. The Decision-Maker(s) may consist of a single individual or a multi-member panel, as determined by SGUSOM. For purposes of this Policy, all references to "decision-maker" or "decision-makers" refer to the Hearing Panel or single Decision-Maker, as applicable. The Decision-Maker(s) may not be the same person(s) as the Title IX Coordinator or the investigator(s) assigned to the matter.

Formal Complaint means a document filed by a Complainant who is participating or attempting to participate in an SGUSOM program or activity in the United States that is filed with the Title IX Coordinator and signed by the Complainant or completed and signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that SGUSOM investigate the Allegation of Sexual Harassment. A Complaint may only be filed by a Complainant if, at the time of filing a Formal Complaint, the Complainant is participating in or attempting to participate in the education program or activity of SGUSOM with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in this Title IX Policy for the Title IX Coordinator. As used here,

the phrase “document filed by a Complainant” means a document or electronic submission (such as by email) that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the person filing the Formal Complaint.

Incapacitation/Incapacitated means the state in which a person’s perception or judgment is so impaired that the person lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause Incapacitation. A person who is Incapacitated is unable to Consent to a sexual activity. Engaging in sexual activity with a person who is Incapacitated (and therefore unable to Consent), where a person knows or ought reasonably to have understood that the other person is Incapacitated, constitutes Sexual Harassment as defined by this Policy.

Reporter means a person who reports Sexual Harassment to the school. This person could be the Complainant but may also be someone else (also known as a Third-Party Reporter).

Respondent means the person who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

Retaliation means taking any adverse action or attempting to take adverse action, including intimidating, threatening, coercing, or in any way discriminating against a person for the purpose of interfering with any right or privilege secured by Title IX or this Title IX Policy, or because the person has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes Retaliation.

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee of SGUSOM conditioning the provision of aid, benefit, or service of SGUSOM on a person’s participation in unwelcome sexual conduct;
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to SGUSOM’s education program or activity; or
- 3) One of the following offenses:
 - a) “Sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Forcible sex offenses means any sexual act directed against

another person, without the Consent of the victim including instances where the victim is incapable of giving Consent; these offenses include:

- i) Rape: The carnal knowledge of a person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - ii) Sodomy: Oral or anal sexual intercourse with another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - iii) Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - iv) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
- b) “Nonforcible Sex Offenses” (except prostitution offenses) means unlawful, nonforcible sexual intercourse; these offenses include:
- i) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
 - ii) Statutory Rape: Sexual intercourse with a person who is under the statutory age of Consent.
- c) “Dating violence” means violence committed by a person:
- i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - ii) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship.
 - (2) The type of relationship.
 - (3) The frequency of interaction between the persons involved in the relationship.
- d) “Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that

person's acts under the domestic or family violence laws of the jurisdiction.

- e) "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i) fear for their safety or the safety of others; or
 - ii) suffer substantial emotional distress.

Supportive Measures means non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or SGUSOM's educational environment, or deter Sexual Harassment. Supportive measures may include counseling, academic support, mutual restrictions on contact between the parties, and other similar measures. SGUSOM maintains as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of SGUSOM to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Third Party Respondent means any Respondent who is not an SGUSOM student, a faculty member, or other employee (e.g., alumni/ae).

Third Party Reporter means a Reporter who is neither the Complainant nor the Respondent. This person may or may not be related to SGUSOM.

Witness means any person who shares fact or expert information relating to an Allegation of Sexual Harassment under this Title IX Policy.

1.3 SCOPE

This SGUSOM Title IX Sexual Harassment Policy ("Title IX Policy" or "Policy") governs reports of Sexual Harassment (as defined herein) in SGUSOM education programs and activities against a person in the United States that occur in the following settings: (1) buildings or other locations that are part of the SGUSOM's operations, including remote learning platforms; (2) off-campus settings if SGUSOM exercised substantial control over the Respondent and the context in which the alleged Sexual Harassment occurred; and (3) off-campus buildings owned or controlled by SGUSOM.

For purposes of this Policy, SGUSOM education programs and activities in the United States may include clinical education, clinical rotations, remote learning platforms, University-sponsored activities, and other educational settings in the United States where SGUSOM exercises substantial control over the Respondent and the context in which the alleged Sexual Harassment occurred.

This Policy does not apply to conduct that occurs outside the United States. Sexual Harassment in SGUSOM education programs and activities that occurs outside the United States is covered by the SGUSOM *Sexual Harassment and Misconduct Policy*, accessible at [Sexual Misconduct Policy](#) and reports of incidents under that policy may be made in accordance with that policy. Likewise, any conduct that occurs in SGUSOM education programs and activities in the United States that does not meet the definition of Sexual Harassment in this Title IX Policy or does not otherwise meet the threshold for investigation under this Title IX Policy may still be reported, investigated, and resolved pursuant to the SGUSOM Sexual Harassment and Misconduct Policy, relevant policy or Handbook and/or Code of Conduct. The Sexual Misconduct Complaint and Appeal Process and Procedure for Non-Title IX Matters governs reports and complaints of Sexual Misconduct that occur in Grenada or otherwise outside the United States, and may also govern matters dismissed or referred from this Title IX Policy where the alleged conduct remains subject to University policy.

When a Formal Complaint or any allegation is dismissed under this Title IX Policy and referred for resolution under another SGUSOM policy, including the Sexual Misconduct Complaint and Appeal Process and Procedure for Non-Title IX Matters, the Title IX Coordinator will provide both parties with written notice identifying the policy under which the matter will proceed, the name and contact information of the official or office responsible for the matter going forward, and a description of the applicable procedures.

1.4 THE TITLE IX COORDINATOR

SGUSOM has designated and authorized a Title IX Coordinator to coordinate SGUSOM's efforts to comply with Title IX. This includes responding to any report alleging Sexual Harassment under this Title IX Policy of which SGUSOM has Actual Knowledge and to any Formal Complaint regarding conduct that violates this Title IX Policy. A report under this Policy may be made to the Title IX Coordinator by any person at any time and may be made by mail, by telephone, by electronic mail, in person, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report using the contact information for the Title IX Coordinator identified below:

Toni Johnson Liggins, M.D.
Associate Dean, Clinical Studies (US)
Title IX Coordinator
St. George's University School of Medicine
Address: 3500 Sunrise Highway, Bldg. 300
Great River, NY 11739
Phone: +1 (631) 665-8500 X1634
Email: Title-IX-Coordinator@sgu.edu

The Title IX Coordinator may delegate certain responsibilities under this Title IX Policy to

individuals who are appropriately trained.

1.5 RECORDKEEPING

SGUSOM will maintain for a period of seven years records of the following:

- Each Title IX Sexual Harassment grievance process conducted under this Policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the Respondent, and remedies provided to the Complainant designed to restore or preserve access to SGUSOM's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, Hearing Panel members, Appeal Panel members, and any individual who facilitates the informal resolution process under this Title IX/Sexual Harassment Policy;
- Records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment under this Title IX Policy. In each instance, and as detailed in Section 2.3, SGUSOM will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to SGUSOM's educational and working program or activity. If SGUSOM does not provide a Complainant with Supportive Measures, then SGUSOM will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

1.6 TRAINING

The Title IX Coordinator is responsible for coordinating training for individuals with responsibilities under this Policy. SGUSOM may provide training directly or through a qualified third party, including recognized Title IX training organizations. SGUSOM will either provide appropriate training, or confirm appropriate training has been provided, to the Title IX Coordinator, Investigators, Decision-Makers, Appeal Officers, and any individual who facilitates the informal resolution process. Such training will cover the definition of Title IX Sexual Harassment, the scope of SGUSOM's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes under this Policy, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Training will also address the effects of trauma on individuals involved in Allegations of Sexual Harassment, while maintaining the principle that the presence or absence of trauma indicators is not determinative of the credibility of any party or Witness.

SGUSOM will ensure that Hearing Panel members receive training on any technology to

be used at a hearing and on issues of relevance of questions and evidence, including questions and evidence about the irrelevancy of Complainant's sexual predisposition or prior sexual behavior. SGUSOM will ensure that investigators receive training on issues of relevance in order to create an investigative report that fairly summarizes relevant evidence. These training materials are made publicly available on SGUSOM's website and will be made available for in-person review upon request. In addition, SGUSOM officials with responsibilities under this Policy will receive training related to intersectionality.

1.7 REVISIONS

SGUSOM reviews this Title IX Policy at regular intervals and reserves the right to make revisions consistent with Title IX and applicable laws.

Part 2

REPORTING AND RESOURCES

2.1. IMMEDIATE MEDICAL ASSISTANCE AND REPORTING TO LAW ENFORCEMENT

If you are the victim of sexual assault, SGUSOM strongly encourages you to seek immediate assistance by calling 911 and promptly report the incident to the police. Timing is a critical factor in collecting and preserving evidence and in obtaining a protection or restraining order. You may also decline to notify law enforcement.

2.2. REPORTING TO SGUSOM

Any person, regardless of whether they are a member of the SGUSOM community, may report alleged Sexual Harassment to SGUSOM's Title IX Coordinator (as identified in Section 1.4). If the Title IX Coordinator receives a report of alleged Sexual Harassment from a Third Party Reporter, someone other than the Complainant (e.g., friend, faculty member, or other SGUSOM employee) or from an anonymous source, the Title IX Coordinator will promptly notify the Complainant of the Allegation and respond in accordance with Section 2.3 of this Title IX Policy. A report made to someone other than the Title IX Coordinator will not be considered a Formal Complaint, and SGUSOM will not be considered to have Actual Knowledge of the Allegation until the report is made to the Title IX Coordinator.

Choosing to make a report, filing a Formal Complaint, meeting with the Title IX Coordinator, and deciding how to proceed do not all need to occur and do not all need to happen quickly. A Complainant does not need to decide whether to pursue a Formal Complaint or name the Respondent at the time of the report, and reporting does not mean you wish to pursue a Formal Complaint. A Formal Complaint is not required for a Complainant to receive resources and Supportive Measures under this Policy.

2.2.1 TIME FOR REPORTING

There is no time limit for reporting Sexual Harassment under this Title IX Policy; however, at the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an SGUSOM education program or activity. Attempting to participate in an SGUSOM program or activity includes withdrawing from SGUSOM due to an Allegation and expressing a desire to re-enroll following resolution; having graduated from SGUSOM but intending to apply to a new program or participate in alumni programs or activities; being on a leave of absence while still enrolled as a student and intending to return at the conclusion of the leave of absence; and/or having applied for admission. Any member of the SGUSOM community who believes that they are a victim of Sexual Harassment under this Policy is encouraged to report the alleged Sexual

Harassment immediately in order to maximize SGUSOM's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation.

2.2.2 CONFIDENTIALITY

SGUSOM understands that confidentiality is a primary concern when making a report of Sexual Harassment. However, SGUSOM must balance this request with the responsibility to provide a safe and non-discriminatory environment for all SGUSOM community members, and confidentiality cannot always be guaranteed. Furthermore, certain SGUSOM employees may be required by law to share information from a report of Sexual Harassment under this Title IX Policy within SGUSOM or governmental agencies. Reports of allegations of Sexual Harassment under this Title IX Policy to non-mandatory reporters shall not be considered to be giving Actual Notice to SGUSOM. Non-confidential SGUSOM employees cannot guarantee confidentiality, but will endeavor to maintain the privacy of the reporting person to the extent reasonably possible.

If a Complainant wishes to remain anonymous or requests that no investigation into the incident be conducted, SGUSOM will weigh that request against SGUSOM's obligation to provide a safe, nondiscriminatory environment for all members of the SGUSOM community, including the Complainant. In certain circumstances, SGUSOM may not be able to honor a Complainant's request when doing so would jeopardize SGUSOM's responsibility to provide a safe, non-discriminatory environment. For example, SGUSOM may investigate a pattern of alleged sexual harassment under this Title IX Policy by an individual in a position of authority. The Title IX Coordinator is designated to evaluate the Complainant's request and make the final determination.

Confidentiality Rights of Complainants and Respondents. While Complainants, Respondents, and Witnesses involved in the grievance process under this Policy are strongly encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of Retaliation, Complainants and Respondents are not restricted from discussing the Allegations under investigation; *provided*, that medical, psychological, and similar treatment records are privileged and confidential documents that cannot be accessed or used for a grievance process under this Policy without the relevant party's voluntary, written consent.

2.2.3 CONFIDENTIAL SUPPORT NOT CONSTITUTING ACTUAL NOTICE

Persons within the SGUSOM community who seek confidential support, including Respondents, have the option of contacting the Ombudsman at Ombuds@sgu.edu. Reporting an Allegation of Sexual Harassment to the Ombudsman is not considered giving Actual Notice to SGUSOM. The

Ombudsman will keep a report regarding an Allegation of Sexual Harassment confidential and will not report it to the Title IX Coordinator or other SGUSOM officials except when there is risk of imminent harm, including if there is more than one Allegation of Sexual Harassment against a single Respondent.

2.3. SGUSOM RESPONSE

As detailed in this Section 2.3, SGUSOM is committed to responding promptly to allegations of sexual harassment of which it has actual knowledge in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances.

2.3.1 RESPONSE UPON NOTICE

Upon SGUSOM receiving notice of alleged facts that, if true, could be considered Sexual Harassment under this Title IX Policy, the Title IX Coordinator or their designee will promptly contact the Complainant to:

- a) Discuss the availability of Supportive Measures (see Section 2.3.2);
- b) Consider the Complainant's wishes with respect to Supportive Measures;
- c) Inform the Complainant of the availability of Supportive Measures with or without filing of a Formal Complaint;
- d) Explain to the Complainant the process for filing a Formal Complaint, as identified in this Title IX Policy; and
- e) Provide information regarding counseling and other services and resources available.

2.3.2 SUPPORTIVE MEASURES

Supportive Measures are available regardless of whether the Complainant chooses to file a Formal Complaint under this Title IX Policy, and may be provided before and after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are available to the Complainant, Respondent, and, if appropriate, to witnesses or other impacted individuals. Requests for Supportive Measures should be made to SGUSOM's Title IX Coordinator. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures, which may involve consultation with and approval by the appropriate SGUSOM offices and departments, e.g., Student Affairs, Human Resources, Department of Public Safety and Security, Clinical Education, Clinical Operations, Judicial Affairs (non-exclusive).

Supportive Measures are provided based on an individualized assessment of the needs of the individual, are meant to be short-term in nature, and will be re-evaluated on a periodic basis. Such Supportive Measures could include medical

and counseling services, academic support services, a mutual “no contact order/agreement,” and other similar measures that do not unreasonably burden the other party’s access to education and that serves the goals of this Title IX Policy. To the extent there is a continuing need for Supportive Measures after the conclusion of the resolution process, the Title IX Coordinator will work with appropriate SGUSOM resources to coordinate continued assistance to the parties.

SGUSOM will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of SGUSOM to provide the Supportive Measures

2.3.3 INTERIM MEASURES

In addition to Supportive Measures, SGUSOM may take additional interim measures, including emergency removal or administrative leave, by following the steps outlined in this Section 2.3.3 to support the safety of any student or other individual.

- a) **Emergency Removal.** SGUSOM may remove a Respondent from its education program or activity on an emergency basis after undertaking an individualized safety and risk analysis and determining that, on such basis, an immediate threat to the physical health or safety of any student or other person arising from the allegations of Sexual Harassment justifies removal; *provided that* SGUSOM provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- b) **Administrative Leave.** SGUSOM may place a non-student employee on administrative leave in accordance with applicable HR policies during the pendency of a grievance process under this Title IX Policy.

Part 3

GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

3.1. GENERAL REQUIREMENTS

3.1.1 EQUITABLE TREATMENT

SGUSOM is committed to providing a prompt, equitable, and impartial investigation and adjudication of all Formal Complaints alleging violations of this Policy. During the grievance process, both parties (Complainant and Respondent) have equal rights to participate. For the avoidance of doubt, both parties will:

- Have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the Allegations raised in a Formal Complaint, including the evidence which SGUSOM does not intend to rely on in reaching a determination regarding responsibility, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation; and
- Have the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney; furthermore, SGUSOM will not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

3.1.2 CONFLICT OF INTEREST & ABSENCE OF BIAS

All people who have responsibilities in administering the grievance process, including an informal resolution process, under this Policy must be free of any conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent and will be trained as provided by federal regulations. This includes the Title IX Coordinator. A party who has concerns that the Title IX Coordinator cannot conduct their role in a fair and unbiased manner may report those concerns by contacting the Office of Student Affairs (studentaffairs@sgu.edu).

Parties will be notified at the appropriate junctures of the identities of the people serving as investigators, Hearing Panel members, and Appeal Panel members. A party who has concerns that one or more of the people performing one of the

aforementioned roles has a conflict of interest or is biased must promptly report those concerns to the Title IX Coordinator upon being notified of their identities and include a brief explanation of the basis for the conflict or bias concern. The Title IX Coordinator will assess the Allegations of conflict or bias to determine whether or not the identified person(s) can fulfill their duties in an impartial way. If the Title IX Coordinator concludes that the facts and circumstances support the claim of conflict or bias, the pertinent person(s) will not participate in the case.

3.1.3 PRESUMPTIONS AND EXPECTATIONS OF COMPLAINANTS, RESPONDENTS AND WITNESSES

SGUSOM presumes that reports of prohibited conduct are made in good faith. A finding that the alleged behavior does not constitute a violation of this Policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not in and of itself necessarily mean that the report was made in bad faith.

In the absence of the exception enumerated herein, the Complainant's predisposition or prior sexual behavior are not relevant and will not be considered during the grievance process. Exceptions to this rule are if prior sexual behavior is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

The Respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance process.

SGUSOM expects all members of the SGUSOM community to be honest and cooperative in their official dealings with SGUSOM under this Policy. In this regard, members of the SGUSOM community are expected to acknowledge requests from SGUSOM officials for information in a timely fashion and to make themselves available for meetings with SGUSOM officials or any officials acting on behalf of SGUSOM; any student or member of the faculty or staff who fails to do so may be subject to discipline. However, parties and Witnesses may choose not to attend the hearing or may choose not to participate in cross-examination at the hearing.

3.1.4 AMNESTY FOR REPORTING PARTIES AND WITNESSES

SGUSOM encourages the reporting of Sexual Harassment and recognizes that an individual who has been drinking alcohol or using drugs at or near the time of an incident may be hesitant to make a report due to potential disciplinary consequences for their own conduct. To encourage reporting, SGUSOM will not

pursue disciplinary action against a Complainant or Witness for personal consumption of alcohol or drugs (underage or otherwise) or other minor policy violations, provided that such violations did not place the health or safety of any other person at risk, and are discovered in connection with a report, investigation, or resolution of a Formal Complaint under this Title IX Policy.

3.2. FORMAL COMPLAINT

If the Complainant wishes to proceed with filing a Formal Complaint, SGUSOM will promptly respond, providing the following information to both the Complainant and the Respondent:

- 1) Notice of SGUSOM's grievance process in this Title IX Policy, including the informal resolution process.
- 2) Notice of the Allegations of Sexual Harassment potentially constituting Sexual Harassment as defined in Title IX/34 CFR §106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. The written notice will contain the following:
 - a) A concise summary of the alleged conduct at issue (including the identities of the parties, the incident(s) in question, and when and where it occurred, if known).
 - b) A statement regarding the presumptions made at the beginning of a grievance procedure, including 1) that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process, and 2) that SGUSOM's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
 - c) A statement informing the parties of the below-described grievance procedures, including that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence collected as part of the investigation.

After issuing the notices outlined above, the Title IX Coordinator or their designee will schedule an individual intake meeting with each party.

SGUSOM seeks to resolve every report of Sexual Harassment under this Title IX Policy within ninety (90) days following the proper filing of a Formal Complaint, excluding any appeal. SGUSOM may extend any time frame for good cause, provided the Complainant and Respondent are given a written explanation as to the reason for such extension.

Note that even if a Complainant does not file a Formal Complaint or withdraw a Formal Complaint, the Title IX Coordinator may file a Formal Complaint themselves and proceed with the grievance process.

3.2.1 CONSOLIDATION OF COMPLAINTS

The Title IX Coordinator has the discretion, **but is not required** to consolidate multiple Formal Complaints as to Allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the Allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

3.2.2 DISMISSAL OF FORMAL COMPLAINTS

1. **Mandatory Dismissal.** SGUSOM must dismiss a Formal Complaint or any Allegations therein with regard to Title IX Sexual Harassment if, at any time during the investigation or hearing, the conduct alleged in the Formal Complaint:
 - a) Would not constitute Sexual Harassment as defined in this Title IX Policy, even if proved;
 - b) Did not occur in SGUSOM's education program or activity; or
 - c) Did not occur against a person in the United States. Such dismissal does not preclude action under any other SGUSOM policy, code of conduct, or handbook provision.
2. **Permissive Dismissal.** SGUSOM may dismiss a Formal Complaint or any Allegations therein if, at any time during the investigation or hearing:
 - a) The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any Allegations therein;
 - b) The Respondent is no longer enrolled at or employed by SGUSOM; or
 - c) Specific circumstances prevent SGUSOM from gathering evidence sufficient to reach a determination as to the Formal Complaint or Allegations therein.
3. **Notice of Dismissal.** Upon dismissal of a Formal Complaint or any Allegations therein, SGUSOM will promptly send written notice of the dismissal and the reasons therefor simultaneously to both the Complainant and the Respondent. Both parties may appeal the dismissal in accordance with Section 3.6 of this Title IX Policy.

3.3. INVESTIGATION OF A FORMAL COMPLAINT

Upon receipt of a Formal Complaint, the Title IX Coordinator will appoint an Investigator to investigate the Allegations subject to the formal grievance process. While the Complainant and the Respondent are not restricted from gathering and presenting relevant evidence, the Investigator is responsible for gathering relevant evidence to the extent reasonably possible. The investigation may include, among other things, individually interviewing the Complainant, the Respondent, and any Witnesses;

reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files (preserving confidentiality wherever necessary); and gathering and examining other relevant documents and evidence.

If, during the course of an investigation, SGUSOM decides to investigate Allegations about the Complainant or Respondent that are not included in the initial notice provided under Section 3.2, SGUSOM will provide notice of the additional Allegations to the parties whose identities are known.

When an investigator seeks to schedule a meeting with an individual for an interview, the investigator will provide to a party written notice of the date, time, location, participants, and purpose of the interviews to which they are invited or expected with sufficient time for the party to prepare to participate. The investigator and/or the investigator's designee(s) will interview Witnesses. The investigator/investigator's designee(s) will record or take notes of all interviews. Any other recording of interviews is prohibited, and violations may result in discipline.

3.3.1 LIMITS ON THE COLLECTION OF EVIDENCE

The investigator will not, as a general rule, consider the sexual history of a Complainant or Respondent. However, in limited circumstances, sexual history may be directly relevant to the investigation. As to Complainants: While the investigator will never assume that a past sexual relationship between the parties means the Complainant Consented to the specific conduct under investigation, evidence of how the parties communicated Consent in past consensual encounters may help the investigator understand whether the Respondent reasonably believed Consent was given during the encounter under investigation. Further, evidence of specific past sexual encounters may be relevant to whether someone other than Respondent was the source of relevant physical evidence. As to Respondents: Questions and evidence about a Respondent's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Respondent's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant. Evidence that is proffered to show a party's reputation or character will not be considered relevant.

In general, a party's medical and counseling records are confidential. The investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the investigators obtain that party's voluntary, written consent to do so.

The investigators will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient), unless the individual holding such privilege has waived the privilege.

Each party and each party's advisor, if any, will receive the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report.

3.4. HEARINGS

3.4.1 THE HEARING PANEL

A panel of three individuals ("Hearing Panel") or a single Decision-Maker will hear every case, as determined by the Title IX Coordinator based on the circumstances of the matter. The Hearing Panel or single Decision-Maker may consist of members of SGUSOM community, or, if required to maintain neutrality, an unrelated Third Party, but may not include the Title IX Coordinator or any investigator involved in the case.

The Hearing Panel or single Decision-Maker will have absolute discretion with respect to administering the hearing, will decide whether evidence and Witnesses are relevant or irrelevant, with the understanding that the introduction of relevant evidence and Witnesses will be permitted, will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, Witness, or advisor.

For purposes of this Section 3.4, all references to the "Hearing Panel" should be read to include a single Decision-Maker where SGUSOM has appointed one in lieu of a multi-member panel.

3.4.2 PRE-HEARING PROCEEDINGS

Prior to the hearing, the Hearing Panel will be provided with the investigative materials. All members of the Hearing Panel shall review these materials, ask questions during the hearing as they deem appropriate, and participate in the deliberations leading to the Hearing Panelist's adjudication of responsibility.

At least ten (10) days prior to the hearing, the parties and their advisers will be provided an investigative report that fairly summarizes relevant evidence for their review and written response.

At least five (5) days prior to the hearing, the parties and their advisers will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely).

In advance of the hearing, parties will be required to identify Witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each Witness would be asked to provide, such that the Hearing Panel can determine their relevance. The Hearing Panel has the discretion to exclude from the hearing evidence/Witnesses/questions deemed irrelevant.

With respect to any party whose participation is invited or expected in a hearing, the Hearing Panel will provide written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the party to prepare to participate.

At the Hearing Panel's discretion, pre-hearing meetings may be scheduled with each of the parties and their advisers to explain the hearing protocol.

Each party may make requests related to the format or the nature of their participation in the hearing. The Hearing Panel will accommodate requests by either party for the hearing to occur with the parties located in separate locations with technology enabling the Hearing Panel and the parties to simultaneously see and hear the party answering questions. As appropriate and/or at the discretion of the Hearing Panel, hearings may be conducted in-person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other during the period of their participation.

3.4.3 HEARING PROCEEDINGS

The Hearing Panel will make all evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing. While the hearing is not intended to be a repeat of the investigation, the parties will be provided with an equal opportunity for their advisers to conduct cross-examination of the other party and/or of relevant Witnesses. A typical hearing may include brief opening remarks by the Hearing Panel; questions posed by the Hearing Panel to one or both of the parties; questions posed by the Hearing Panel to any relevant Witnesses; and cross-examination by either party's adviser of the other party and relevant Witnesses.

The parties' advisers will have the opportunity to cross-examine the other party (and Witnesses, if any). Such cross-examination must be conducted directly, orally, and in real time by the party's adviser and never by a party personally. If a

party does not have an advisor present at the hearing, SGUSOM will provide, without fee or charge to that party, an advisor of SGUSOM's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. The appointment of an advisor by SGUSOM does not create an attorney-client or other privileged relationship between the advisor and the party.

Only relevant cross-examination questions may be asked of a party or Witness. Before a party or Witness answers a cross-examination question that has been posed by a party's adviser, the Hearing Panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Hearing Panel may exclude as not relevant any question that is duplicative or repetitive and may, in its discretion, prohibit any question it deems abusive, intimidating, or disrespectful.

The parties, their advisors, and Witnesses are expected to abide by rules of decorum established by the Hearing Panel and published in advance of the hearing. Such rules will include, at a minimum, expectations regarding respectful conduct, prohibitions on abusive or intimidating questioning, the process for objecting to questions, and consequences for violation of decorum rules, including possible removal from the hearing.

SGUSOM shall create an official record in the form of a recording or transcript of any live (or remote) hearing and make it available to the parties for inspection and review. Any other record of the hearing or any other recording is prohibited, and violations may result in discipline.

3.5. DETERMINATION REGARDING RESPONSIBILITY

3.5.1 STANDARD OF PROOF

The standard of proof under this Policy is preponderance of the evidence. This is the same standard of proof applied by SGUSOM in proceedings for comparable misconduct by students and employees in non-Title IX matters. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the Respondent violated this Policy. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or Witness.

3.5.2 CONTENTS OF DETERMINATION

Following the hearing, the Hearing Panel will objectively consider all of the relevant evidence, including both inculpatory and exculpatory evidence, and deliberate regarding responsibility. The written determination will be issued simultaneously to both parties and will include:

- Identification of the Allegations potentially constituting Sexual Harassment;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Title IX Policy or Code of Conduct to the facts;
- A statement of, and rationale for, the result as to each Allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies will be provided to the Complainant to restore or preserve equal access; and
- Information about procedures and permissible bases for the Complainant or Respondent to appeal.

3.5.3 SANCTIONS & REMEDIES

When a Respondent is found responsible for the prohibited behavior as alleged, sanctions are based on the severity and circumstances of the behavior. The range of potential remedies and sanctions, and corrective actions that may be imposed on a student includes, but is not limited to the following:

- Suspending or expelling any student found responsible for Sexual Harassment
- Terminating the employment of any employee found responsible for Sexual Harassment
- Reprimand or warning
- Changing the Respondent's academic schedule
- Disciplinary probation
- Revocation of honors or awards
- Restricting the Respondent's access to SGUSOM facilities or activities
- Issuing a "no-contact" order or requiring that such an order remain in place
- Counseling (formal and informal)
- Dismissal from, restriction of, or reassignment within SGUSOM employment

3.6. APPEALS

Each party may appeal (1) the dismissal of a Formal Complaint or any included Allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) business days of being notified of the decision, including the grounds for the appeal. The grounds for appeal are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination

- regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against Complainants or Respondents in general, that affected the outcome of the matter.

The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal. If a party appeals, SGUSOM will as soon as practicable notify the other party in writing of the appeal; however, the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals under this Policy will be heard by an appeal panel (“Appeal Panel”) comprised of three individuals, who will be free of conflict of interest and bias with regard to the Complainant and Respondent, and did not serve as investigator, Title IX Coordinator, or decision-maker in the same matter. The Appeal Panel shall decide appeals by majority vote. SGUSOM aims to resolve appeals within fourteen (14) days following the submission of an appeal. SGUSOM may extend any time frame for good cause, provided the Complainant and Respondent are given a written explanation as to the reason for such extension.

3.7. INFORMAL RESOLUTION

Subject to the consent of the parties and the approval of the Title IX Coordinator, SGUSOM permits informal resolution processes in cases in which a Formal Complaint has been filed with the Title IX Coordinator. The informal resolution process is available only in matters involving a student Complainant and a student Respondent or in matters involving a faculty/staff Complainant and a faculty/staff Respondent. The informal resolution process is not available to resolve allegations within the scope of this Policy that an employee sexually harassed a student under this Title IX Policy.

The informal resolution process is a voluntary, remedies-based process designed to provide parties with an option to resolve disputes with other parties in a forum that is separate and distinct from SGUSOM’s formal grievance processes under the Title IX Sexual Harassment Policy.

SGUSOM will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of Title IX Sexual Harassment. Similarly, SGUSOM will not require, encourage, or discourage the parties from participating in the informal resolution process. SGUSOM will not offer the informal resolution process unless a Formal Complaint is filed. SGUSOM aims to resolve informal resolution processes within sixty (60) days following the approval of the processes by the

Title IX Coordinator. SGUSOM may extend any time frame for good cause, provided the parties are given a written explanation as to the reason for such extension.

3.8. RETALIATION PROHIBITED

SGUSOM prohibits Retaliation against a person in the United States for the purpose of interfering with any right or privilege secured by Title IX or this Title IX Policy, or because the person has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Complaints alleging Retaliation may be filed according to the grievance procedures as outlined in this Title IX Policy.

For the avoidance of doubt, charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Title IX Policy does not constitute Retaliation; provided, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.